104-10129-10348

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RAY FAILS IN MOVE FOR SECOND TRIAL

27 MAY 1969

Judge in Memphis Rules He Gave Up Right of Appeal When Pleading Guilty

NEW YORK TIMES

By MARTIN WALDRON

Special to The New York Times

MEMPHIS, Tenn., May 26—Criminal Court Judge Arthur C. Faquin Jr. ruled today that James Earl Ray gave up his right of appeal on March 10 when he pleaded guilty to the murder of the Rev. Dr. Martin Luther King Jr.

The judge threw out Ray's request for a new trial and ordered the pudgey, 41-year-old convict returned to the Tennessee State Penitentiary at Nashville to continue serving his 99-year sentence.

During the session Ray, whose weight has risen from 170 to almost 190 pounds in two months of solitary confinement at the penitentiary, sat quietly behind his lawyers.

State prosecutors introduced into evidence a signed statement by Ray requesting that he be allowed to plead guilty in return for the 99-year sentence and agreeing that he would neither appeal the sentence nor ask for a new trial.

Legal Technicalities

Judge Faquin said that such agreements were legal and blinding in Tennessee. He cited numerous Tennessee court decisions in behalf of this position.

Today's hearing, which had held the promise of being a forum for Ray's story that he was nothing more than a dupe who pleaded guilty because of pressure, never got beyond legal technicalities.

At the start of the hearing, Ray's three attorneys withdrew allegations that Ray's former lawyer, Percy Foreman of Houston, had browbeaten Ray into pleading guilty.

Judge Faquin offered to throw open the hearing to allow Ray to state his position, but the attorneys representing him declined the offer. They would not explain why the allegations about the pressure had been withdrawn.

Robert K. Dwyer, the prosecutor, who just this morning

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Associated Press

MOTION DENIED: J. B. Stoner, lawyer for James Earl Ray, telling newsmen that Judge Arthur Faquin had re-

THE NEW YORK TIMES, TUESDAY, MAY 27, 1969

Ray Fails in Plea for New Trial; Judge Orders Him Back to Jail

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a full hearing under a post-conviction act that allows Tennessee convicts to seek leniency while they are serving prison terms. Mr. Stoner indicated that the lawyers planned to follow all three courses if necessary.

They contended at today's hearing that Tennessee law required that Ray be given a new trial because he had asked for it before the death of W. Preston Battle, the judge who sentenced him to 99 years. The judge died three weeks after the sentencing and before the time of applying for a new trial had expired.

But Judge Faquin ruled that Ray's case was not governed by this law because he had waived his right to appeal or to ask for a new trial.

Ray is expected to be returned to the penitentiary to-

was appointed to the Tennessee Court of Appeals, was prepared to call Mr. Foreman and William Bradford Huie, the Alabama author who bought publication rights to Ray's story, to rebut any charges by Ray.

Ray had said that he was forced to plead guilty to promote magazine, book and movie rights sales for Mr. Huie and Mr. Foreman.

May Go to Higher Courts

Judge Faquin told Ray's lawyer's, who included J. B. Stoner, of Savannah, Ga., an outspoken racist, that they could ask higher courts to direct him to grant Ray a new trial.

Failing that, he said, they could file a writ of habeas corpus seeking a new trial by alleging fraud

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